

Notice of Allowability

Application No.

09/731,178

Examiner

Michael N. Opsasnick

Applicant(s)

GOEDEKE ET AL.

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the arguments presented in the appeal brief filed 9/23/2005.
2. ☒ The allowed claim(s) is/are 1-30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

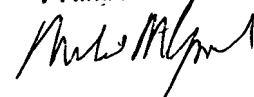
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

**MICHAEL OPSASNICK
PRIMARY EXAMINER**



DETAILED ACTION

1. In view of the interview between applicant's representative, and in view of the arguments presented 9/23/2005, the office action mailed 6/14/2007 is vacated, and prosecution on the merits is reopened.

Allowable Subject Matter

2. Claims 1-30 are allowed over the prior art of record.

3. The following is an examiner's statement of reasons for allowance:

As per the independent claims, the claim recitations pertaining to recognize an audio signal corresponding to one of a subset of commands from a set of commands wherein the commands corresponding to a task to be performed on the implanted medical device, the speech recognition circuit further adapted to convert the audio signal into a selection code and match the selection code wherein the implanted medical device and automatically select the subset of commands as a function of the device state, and a medical data processing instrument coupled to the processor arrangement and adapted to, in response to the control signal, execute the one of the subset of commands and to display data generated in response to execution of the one of the subset of commands, is not explicitly taught by the prior art of record.

With respect to the prior art of record, speech controlled implantable medical devices, along with interrogation techniques with an implantable medical device and data capturing

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computer equipment, are notoriously old and well known in the art. For example, Snell (U.S. Patent 5,792,204, issued August 11, 1998) teaches a system interfacing with an implanted medical device (col. 3, lines 61-65), with microphone input of a voice command to a speech recognizer (col. 3, lines 5-7); the speech recognizer matching the input voice command to the subset of commands and converting the recognized voice command into a selection code (control program instructions, col. 4, line 5), said commands along with a set of control signals being stored in memory (col. 5, line 67 thru col. 6, line 2; col. 4, lines 5-6), and generating a control signal therefrom to execute the commands (col. 3, lines 9-13; col. 5, lines 4-6); a display device (col. 4, line 62); and displaying received data generated by the implanted medical device in response to the execution of the command as well as implanted medical device state data (col. 4, lines 62-65 and col. 5, lines 3-13), and interfacing with an implanted medical device (col. 3, lines 61-65), with a microphone input of a voice command to a speech recognizer (col. 3, lines 5-7); control program instructions, col. 4, line 5. In the art of speech recognition and commands, it is old and notoriously well known to generate subcommand lists pertaining to particular subjects. For example, Rozak et al (5761641) teaches context-sensitive commands, and to display them for user selection by voice (or, of course, by keyboard or mouse) from a displayed menu (Rozak et al (5761641), Fig. 9, col. 3 line 55 – col. 4 line 19 -- commands are created that are context specific and application specific). The only commonality to the Snell and Rozak reference is the storage/usage of voice commands. However, it would not have been obvious to one of ordinary skill in the art to modify either reference to obtain the recited claim limitations of the independent claims as noted above.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (571)272-7623, who is available Tuesday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Richemond Dorvil, can be reached at (571)272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MICHAEL OPSASNICK
PRIMARY EXAMINER


mno

primary examiner
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09/10/2007